



COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission (Commission), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of rulemakings that the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Christopher J. Kirkpatrick, Secretary of the Commission, (202) 418-5964, ckirkpatrick@cftc.gov, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.*, includes a requirement that each agency publish semiannually in the **Federal Register** a regulatory flexibility agenda. Such agendas are to contain the following elements, as specified in 5 U.S.C. 602(a):

- (1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;
- (2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda, the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in the agenda.

Accordingly, the Commission has prepared an agenda of rulemakings that it presently expects may be considered during the course of the next year. Subject to a determination for each rule, it is possible as a general matter that some of these rules may have some impact on small entities.¹ The Commission notes also that, under the RFA, it is not precluded from considering or acting on a matter not included in the regulatory flexibility agenda, nor is it required to consider or act on any matter that is listed in the agenda. See 5 U.S.C. 602(d).

The Commission's Fall 2016 regulatory flexibility agenda is included in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users enhanced ability to obtain information from the Agenda database.

Issued in Washington, DC, on September 28, 2016, by the Commission.

NAME: Christopher J. Kirkpatrick,

Secretary of the Commission.

Commodity Futures Trading Commission—Proposed Rule Stage

¹ The Commission published its definition of a “small entity” for purposes of rulemaking proceedings at 47 FR 18618 (April 30, 1982). Pursuant to that definition, the Commission is not required to list – but nonetheless does – many of the items contained in this regulatory flexibility agenda. See also 5 U.S.C. 602(a)(1). Moreover, for certain items listed in this agenda, the Commission has previously certified, under section 605 of the RFA, 5 U.S.C. 605, that those items will not have a significant economic impact on a substantial number of small entities. For these reasons, the listing of a rule in this regulatory flexibility agenda should not be taken as a determination that the rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. Rather, the Commission has chosen to publish an agenda that includes significant and other substantive rules, regardless of their potential impact on small entities, to provide the public with broader notice of new or revised regulations the Commission may consider and to enhance the public’s opportunity to participate in the rulemaking process.

Sequence Number	Title	Regulation Identifier Number
454	Regulation Automated Trading	3038–AD52
455	Indemnification Rulemaking	3038–AE44

Commodity Futures Trading Commission (CFTC)	Proposed Rule Stage

454. REGULATION AUTOMATED TRADING

Legal Authority: 7 U.S.C. 1a(23), 7 U.S.C. 6c(a) ; 7 U.S.C. 7(d) ; and 7 U.S.C. 12(a)(5)

Abstract: On December 17, 2015, the Commission published a notice of proposed rulemaking ("NPRM") titled "Regulation Automated Trading." Regulation Automated Trading proposes a series of risk controls, transparency measures and other safeguards to enhance the regulatory regime for automated trading on U.S. designated contract markets. The initial comment period was open through March 16, 2016, and was re-opened from June 10 through June 24, 2016. After evaluating all comments received, the Commission is now considering publishing a supplemental NPRM to incorporate comments and make certain amendments to its proposal.

Timetable:

Action	Date	FR Cite
ANPRM	09/12/13	78 FR 56542
ANPRM Comment Period End	12/11/13	
ANPRM Comment Period Extended	01/24/14	79 FR 4104
ANPRM Comment Period	02/14/14	

Extended End		
NPRM	12/17/15	80 FR 78824
NPRM Comment Period End	03/16/16	
NPRM Comment Period Reopened	06/10/16	81 FR 36484
NPRM Comment Period End	06/24/16	
Supplemental NPRM	11/00/16	
Supplemental NPRM Comment Period End	12/00/16	

Regulatory Flexibility Analysis Required: Yes

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RIN: 3038–AD52

455. • INDEMNIFICATION RULEMAKING

Legal Authority: CEA 8a(5) and 21

Abstract: The FAST Act repealed CEA 21(d)(2), added to the CEA by Dodd-Frank 728, which provided that domestic and foreign regulators that are otherwise eligible to, and that do, request data from an SDR (collectively Regulators) agree to indemnify the SDR and the CFTC for expenses resulting from litigation relating to the information provided. When considered in light of the CFTC’s current regulations addressing Regulators’ access to SDR data, the removal of the indemnification requirement presents a number of issues, primarily related to the scope of Regulators’ access to SDR data, and maintaining the confidentiality of such data consistent with CEA 8. The Commission plans to address these issues in a notice of proposed rulemaking (NPRM) that revises the current approach to Regulators’ access to SDRs’ swap data and set forth more information regarding the confidentiality agreement that is required by CEA 21(d).

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes

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